

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

KEITH LONDON,

Plaintiff,

v.

Case No. 18-cv-889-pp

STATE OF WISCONSIN
DEPARTMENT OF CORRECTIONS, *et al.*,

Defendants.

**ORDER ADOPTING MAGISTRATE JUDGE WILLIAM DUFFIN'S REPORT AND
RECOMMENDATION (DKT. NO. 28) AND DISMISSING THE CASE**

On June 12, 2018, the plaintiff filed a complaint alleging that the defendants violated his civil rights, dkt. no. 1; he filed an amended complaint a couple of months later, dkt. no. 10. The Prison Litigation Reform Act applies to this case because the plaintiff was incarcerated when he filed his complaint. That law requires courts to screen a complaint filed by an incarcerated plaintiff to determine whether the plaintiff has stated any claims for which a federal court can grant relief.

On November 16, 2018, the court referred the case to Magistrate Judge William Duffin for all pretrial matters. Dkt. No. 25. Five days later, on November 21, 2018, Judge Duffin screened the plaintiff's amended complaint and concluded that he had filed the amended complaint to harass the defendants and/or the court.¹ Dkt. No. 26 at 8. Judge Duffin gave the plaintiff

¹ Judge Duffin noted that the plaintiff has filed numerous cases in this district. Dkt. No. 26 at 8. The plaintiff's amended complaint consists of twenty-six,

an opportunity to file a second amended complaint by December 21, 2018, but he warned the plaintiff that if he did not file a second amended complaint—one that complied with Judge Duffin’s order—by the deadline, Judge Duffin would recommend that this court dismiss the plaintiff’s case and assess him a strike under 28 U.S.C. §1915(g). Id.

The plaintiff did not file a second amended complaint by December 21, 2018, so on January 2, 2019, Judge Duffin did what he had warned the plaintiff he would do—he recommended that this court dismiss the plaintiff’s case and assess him a strike because his amended complaint was malicious. Dkt. No. 28. In his order, Judge Duffin informed the plaintiff that he had fourteen days to object to the recommendation (in other words, the plaintiff needed to object by January 16, 2019 or thereabout). Id. The court has not received an objection. The court is aware that the plaintiff was released on extended supervision on January 9, 2019, but that was seven days after Judge Duffin issued his recommendation, and six weeks after Judge Duffin ordered

single-spaced pages in which the plaintiff purports to name “The Entire State of Wisconsin” as defendants. Dkt. No. 10 at 5. It discusses health care providers, the failure of the State Public Defender to have handicap-accessible offices, the fact that the Milwaukee County Courthouse and the sheriff’s department do not have handicap-accessible bathrooms. It alleges that a state court judge retaliated against him. It alleges that his First Amendment religious rights were violated by jails and hospitals. It complains about jail food. It claims that his flesh was rotting and smelled. It alleges HIPPA violations. Judge Duffin concluded that the fact that the plaintiff filed a complaint that violated several of the Federal Rules of Civil Procedure, when he is an experienced litigant, demonstrated that he had filed the complaint for malicious reasons. Dkt. No. 26 at 8.

him to file an amended complaint. (See <https://appsdoc.wi.gov/lop/detail.do>, last checked January 22, 2019.)

The court agrees with Judge Duffin's analysis of the plaintiff's amended complaint, and will adopt his recommendation. The court incorporates Judge Duffin's conclusions and the reasoning supporting those conclusions in this order.

The court **ORDERS** that this case is **DISMISSED** under 28 U.S.C. §§1915(e)(2)(B) and 1915A(b)(1) because the plaintiff's amended complaint was malicious, and because the plaintiff failed to follow Judge Duffin's order to file an amended complaint that complies with the Federal Rules of Civil Procedure.

The court **ORDERS** that the Clerk of Court shall document that the plaintiff has incurred a "strike" under 28 U.S.C. §1915(g).

Dated in Milwaukee, Wisconsin, this 29th day of January, 2019.

BY THE COURT:

A handwritten signature in black ink, appearing to read 'P. Pepper', is written over a horizontal line.

HON. PAMELA PEPPER
United States District Judge